



**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

**[EPA-R07-OAR-2021-0298; FRL-8709-02-R7]**

**Air Plan Approval; Nebraska; Revisions to Title 129 of the Nebraska Administrative Code; General Conformity**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is taking final action to approve a revision to the State Implementation Plan (SIP) for the State of Nebraska. This final action will amend the SIP to revise title 129 of the Nebraska Administrative Code by removing a portion of the SIP that addresses general conformity. General Conformity ensures that the actions taken by federal agencies do not interfere with a state's plan to attain and maintain national standards for air quality. Since states are no longer required to include general conformity requirements in SIPs, the revisions remove unnecessary language and do not substantively change any existing statutory or regulatory requirement. The revisions do not impact the stringency of the SIP or air quality nor do they impact the State's ability to attain or maintain the National Ambient Air Quality Standards.

**DATES:** This final rule is effective on **[insert date 30 days after date of publication in the Federal Register]**.

**ADDRESSES:** The EPA has established a docket for this action under Docket ID No. EPA-R07-OAR-2021-0298. All documents in the docket are listed on the <https://www.regulations.gov> web site. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available through <https://www.regulations.gov> or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional information.

**FOR FURTHER INFORMATION CONTACT:** Allie Donohue, Environmental Protection Agency, Region 7 Office, Air Quality Planning Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219; telephone number (913) 551-7986; email address: [donohue.allie@epa.gov](mailto:donohue.allie@epa.gov)

**SUPPLEMENTARY INFORMATION:** Throughout this document "we," "us," and "our" refer to EPA.

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### **I. What is Being Addressed in this Document?**

The EPA is amending Nebraska's SIP to include revisions to title 129 of the Nebraska Administrative Code. The EPA is approving revisions to the Nebraska SIP submitted by the State

of Nebraska on July 16, 2020. Specifically, the EPA is amending the Nebraska SIP by removing a portion of the SIP as follows: Title 129, Chapter 40. General Conformity. EPA is approving these revisions as they remove unnecessary language and do not substantively change any existing statutory or regulatory requirement. The EPA solicited comments on the proposed revision to Nebraska's SIP, and received no comments.

## **II. Have the Requirements for Approval of a SIP Revision Been Met?**

The State submission has met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The submission also satisfied the completeness criteria of 40 CFR part 51, appendix V. The State provided public notice of this SIP revision from September 28, 2019 to November 6, 2019 and held a public hearing on November 7, 2019. In a letter to the state dated November 7, 2019, the EPA stated that the agency "has no comment on the proposed repeal of this regulation." The SIP revision meets the substantive SIP requirements of the Clean Air Act (CAA), including section 110 and implementing regulations.

## **III. What Action is the EPA Taking?**

The EPA is taking final action to amend the Nebraska SIP by approving the state's request to remove Title 129 Chapter 40. General Conformity. The removal of this portion of the SIP will remove unnecessary language and does not substantively change any existing statutory or regulatory requirement. The EPA has determined that these changes will not impact the stringency of

the SIP or adversely impact air quality.

#### **IV. Incorporation by Reference**

In this document, the EPA is amending regulatory text that includes incorporation by reference. As described in the amendments to 40 CFR part 52 set forth below, the EPA is removing provisions of the EPA-Approved Nebraska Regulations from the Nebraska State Implementation Plan, which is incorporated by reference in accordance with the requirements of 1 CFR part 51.

#### **V. Statutory and Executive Order Reviews**

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of the National Technology Transfer and Advancement Act (NTTA) because this rulemaking does not involve technical standards; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on

tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the *Federal Register*. A major rule cannot take effect until 60 days after it is published in the *Federal Register*. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[insert date 60 days after date of publication in the Federal Register]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

## List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control,  
Incorporation by reference, Intergovernmental relations.

Dated: \_\_\_\_\_

July 30, 2021.

Edward H. Chu,  
*Acting Regional Administrator,*  
*Region 7.*

For the reasons stated in the preamble, EPA amends 40 CFR  
part 52 as set forth below:

### **PART 52--APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

1. The authority citation for part 52 continues to read as  
follows:

**Authority:** 42 U.S.C. 7401 *et seq.*

#### **Subpart CC [Amended]**

#### **§ 52.1420 [Amended]**

2. In §52.1420, the table in paragraph (c) is amended by  
removing the entry for "129-40" under the heading "Title 129-  
Nebraska Air Quality Regulations".